**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU**

**TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929**

**Crl.Rev.Pet.No. 427 of 1999()**

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**CC.2/1998 of CHIEF JUDICIAL MAGISTRATE, ALAPPUZHA**

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**REVN. PETITIONER: DE FACTO COMPLAINANT**

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**N.MOHANAN,**
**"ANJALI" ,**
**VARANAD P.O., CHERTHALA.**

**BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY**
**SRI.V.VARGHESE**

**RESPONDENTS: ACCUSED AND STATE**

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1. **JEEVAN, S/O.SREEDHARAN,**
   **PUTHUVEETTIL, C.M.C., XII,**
   **CHERTHALA.**

2. **STATE OF KERALA, REP.BY**
   **THE SUB INSPECTOR OF POLICE,**
   **CHERTHALA IN CRIM NO.513/91.**

**BY ADV. SRI.G.HARIHARAN**
**PUBLIC PROSECUTOR SRI.C.K.SURESH**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**K.R. UDAYABHANU, J.**

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Crl. R.P. No.427 of 1999

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Dated 19th June, 2007

**ORDER**

The revision petitioner is the de facto complainant in C.C.no.2/98 with respect to the offence under sections 420 read with 34 IPC. The order challenged is the order of discharge issued by the court below on the basis that the trial of the rest of the accused in C.C. 152/93 ended in acquittal. It is submitted that the accused herein was absconding. Subsequently, he resurfaced and the case was numbered as C.C. No.2/98. The court below allowed the application relying on the evidence adduced in C.C.152/93. Evidently the above procedure adopted by the court below cannot be resorted to in view of the Full Bench decision of this Court in Moosa v. S.I of Police (2006 (1) KLT 552). In the result, the order of the court below is liable to be set aside and I do so. The court below is directed to further proceed with the case and dispose of the same on merits. The accused will appear before the

court below on 23-7-2007.

The Crl.R P is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE.

Kvm/-

K.R.UDAYABHANU, J.

CRL.R.P. 427 OF 1999

ORDER

19-6-2007.